

March 19, 2015



Talbot County Planning Commission
Final Decision Summary

Wednesday, January 7, 2015 at 9:00 a.m.

Bradley Meeting Room

11 N. Washington Street, Easton, Maryland

Attendance:

Commission Members:

Thomas Hughes
William Boicourt
Michael Sullivan
Paul Spies
Jack Fischer

Staff:

Mary Kay Verdery, Planning Officer
Daniel Brandewie, Assistant Planning Officer
Jeremy Rothwell, Planner I
Martin Sokolich, Long Range Planner
Mike Mertaugh Assistant County Engineer
Anthony Kupersmith, Assistant, County Attorney
Carole Sellman, Recording Secretary

1. Call to Order—Commissioner Hughes called the meeting to order at 9:00 a.m.

2. Election of Officers—

Commissioner Boicourt moved to elect Commissioner Hughes as Chairman and Commissioner Fischer seconded. Commissioner Hughes remarked that if elected, this will be his last year as Chairman under the Bylaws. The vote was taken and Commissioner Hughes was elected by a vote of 5-0.

Commissioner Sullivan moved to elect Commissioner Fischer as Vice Chairman and Commissioner Spies seconded. Commissioner Fischer stated that there were others more qualified than he. The Commission members discussed the nomination and Commissioner Fischer agreed to accept the nomination. The vote was taken and Commissioner Fischer was elected by a vote of 4-1.

3. Decision Summary Review—December 5, 2014—The Commission noted the following corrections to the draft decision summary:

- a. Line 264-265, change sentence to read, "Commissioner Hughes stated that after review he did not feel that the Commission should be sending letters inviting applicants to amend site plans they had violated in the first place, and this view was unanimously held by all members of the Planning Commission."

Commissioner Sullivan moved to approve the draft Planning Commission Decision Summary for December 3, 2014, as amended; Commissioner Boicourt seconded the motion. The motion carried unanimously.

54 **4. Special Meeting Decision Summary Review—December 5, 2014**

55 Commissioner Boicourt moved to table the review of the draft Planning
56 Commission Special Meeting Decision Summary for December 5, 2014;
57 Commissioner Fischer seconded the motion. The motion carried unanimously.
58
59

60 **5. Old Business**

61
62 a. Recommendation of Annual Report on County Growth to the Maryland
63 Department of Planning
64

65 Mr. Sokolich stated that the requested changes did not affect the Report, but were
66 in the cover Memorandum. The changes are in the bullet points where it was
67 unclear what kind of development was being discussed. Mr. Sokolich spoke with
68 our Permits Managers and even though there is not as much new construction
69 there is still quite a bit of investment in property.
70

71 Commissioner Hughes stated that he still could not get an idea of how many
72 permits were turned down. Mr. Sokolich explained that there is no record of
73 permits turned down. What the current process is when there is a problem, for
74 example if the sketches are not correct, the applicant is requested to correct their
75 sketches and resubmit. Whatever the problem is the applicant is given an
76 opportunity to correct the problem and resubmit it so that the permit can be
77 processed. Commissioner Hughes stated this needs to be explained to the County
78 Council because there have been a lot of complaints about citizens saying the
79 County will not let me do this or do that.
80

81 Ms. Verdery stated that this may be the issue where citizens are being told that
82 their property is not buildable due to Code regulations, but that would be prior to
83 the permits process. Commissioner Hughes stated that if citizens are being denied
84 the opportunity to do something, it is probably as much a state regulation as a
85 County regulation.
86

87 Mr. Sokolich stated that as we move forward we are going to have work sessions
88 with the County Council to familiarize them with the operations of the Planning
89 Office.
90

91 Commissioner Fischer stated that the word "only" should be deleted from the
92 third line of the last paragraph on the last page of the report. Commissioner
93 Hughes stated on the second line the word "incorporated" should be inserted
94 before "towns" because people often don't know the corporate boundaries of the
95 towns, or the legal difference between incorporated towns and rural villages.
96

97 Commissioner Boicourt moved to positively recommend the 2013 Annual
98 Development Report to the Maryland Department of Planning; Commissioner
99 Sullivan seconded the motion. The motion carried unanimously.

101 **6. New Business**

- 102
- 103 a. Verizon Wireless, c/o Network Building and Consulting LLC, "Falcon" (SP 555
104 and Appeal No. 14-1623)—29415 Tarbutton Mill Road Trappe MD 21673, (map
105 48, grid 24, parcel 76, zoned Countryside Preservation), Harold Bernadzikowski,
106 Agent.

107

108 Mr. Rothwell presented the staff report of the applicant's request for a
109 modification to Special Exception No. 880 to expand the fenced equipment
110 compound area by approximately 1,040 square feet for the existing
111 telecommunications tower. The proposed expansion would provide adequate area
112 for Verizon Wireless to install an equipment shelter and backup generator to
113 operate Verizon's antennas which are to be collocated on the existing tower. The
114 Planning Commission shall provide a recommendation to the Board of Appeals as
115 per the *Talbot County Code* §190-180 B(2).

116

117 Staff recommendations include:

- 118
- 119 1. The applicant shall commence construction on the proposed improvements
120 within eighteen (18) months from the date of the Board of Appeals approval.
 - 121 2. The applicant shall make applications to and follow all of the rules,
122 procedures and construction timelines as outlined by the Office of Permits and
123 Inspections regarding new construction.
 - 124 3. The project will be required to address forest conservation, to include
125 mitigation for the removal of any trees.

126

127 Commissioner Sullivan questioned that Verizon's equipment appeared to be larger
128 than the other equipment.

129

130 Mr. Bernardzikowski appeared on behalf of Verizon. He stated that yes; Verizon
131 equipment is larger than the other equipment. He said usually if Verizon is a part
132 of the original project a larger compound is built initially, but this project was
133 completed piecemeal.

134

135 Commissioner Boicourt stated that this structure was very unobtrusive.

136

137 Mr. Mertaugh stated there might be a need for a parking pad and/or turning area.
138 But if the Planning Commission feels it is not necessary, it is not necessary. Mr.
139 Bernardzikowski stated that they are looking into the fact if there is still room to
140 do a three point turn. If there is not, they plan to bump out the drive on the
141 opposite side of the driveway. Mr. Mertaugh explained that the surface is well
142 hardened. Commissioner Hughes asked if staff is comfortable with comments as
143 they stand. Staff was agreeable with the plan as it stands.

144

145 Commissioner Hughes asked for comments from the Commission and the public.
146 There were none.

Commissioner Boicourt moved to approve the major site plan for modification for expansion of the existing compound for the installation of Verizon Wireless equipment associated with collocation of antennas at Tarbutton Mill Road, on the existing tower with Staff conditions, providing the special exception by the Board of Appeals be approved, Commissioner Sullivan seconded. The motion carried unanimously.

Commissioner Hughes asked for public comment on the special exception, there were none.

Commissioner Spies moved to recommend to the Board of Appeals to approve the request for modification of special exception of equipment of Verizon Wireless at Tarbutton Mill Road, on the existing tower, as it meets all the warrants of the Code, has minimal environmental impact and improves cell phone coverage for the County, Commissioner Sullivan seconded. The motion carried unanimously.

- b. Chesapeake Landing Restaurant c/o Spurry Family Partnership (SP 554 and Appeal No 14-1624)—23713 St. Michaels Road, St. Michaels, MD 21663, (map 22, grid 5, parcel 2, zoned Rural Conservation), Joseph Spurry, Agent.

Mr. Rothwell presented the staff report for the amendment to an existing Special Exception from the Board of Appeals to convert interior office spaces to allow a bar and waiting area. This conversion expands the legal nonconforming restaurant use by approximately 600 square feet within the confines of the existing structure, and would increase the seating capacity by 32 persons. The applicant is also requesting to change the operating hours to 11 am to 10 pm. The Planning Commission shall provide a recommendation to the Board of Appeals as per the *Talbot County Code* §190-180 B(2).

Staff recommendations include:

1. The applicant must comply with COMAR 10.15.03 with regards to the submittal of the food facility plan review to the Office of Environmental Health. The point of contact is Carlie Jo Wagner, who can be reached at 410-770-6880. No application for building permit for the proposed changes will be approved by the Office of Environmental Health without first securing the require food facility plan review approval.
2. The applicant shall commence construction on the proposed improvements within eighteen (18) months from the date of the Board of Appeals approval.
3. The applicant shall make applications to and follow all of the rules, procedures and construction timelines as outlined by the Office of Permits and Inspections regarding new construction.

The applicant would like to add a bar and waiting area, change operating hours to 11 am to 10 pm, from previous closing time of 9 pm. The last time the applicant

193 put in an appeal to the Board of Appeals there was a limit to the seating to 125.
194 There was a discrepancy between what was approved and what exists which is
195 160. Mr. Rothwell met with the State Fire Marshall and one of the Code
196 Inspectors and inspected the site and it meets capacity limits of the State Fire
197 Code. Currently the site has an excess of parking spaces. Planning and Zoning has
198 no objection to the expansion.
199

200 Commissioner Hughes asked if that occupancy number includes outdoor seating.
201 Mr. Rothwell explained there is no outdoor seating. He also explained one of the
202 warrants deals with nuisance and noise impacts to adjacent properties. One of the
203 previous Board of Appeals decisions stipulated there is to be no live music and
204 they are not asking for any. There have not been any noise complaints and State
205 Highway gave their approval of this project as well.
206

207 Mr. Spurry appeared on behalf of applicant. Commissioner Hughes asked if there
208 had been complaints or any liquor violations on the property. Mr. Spurry stated he
209 just recently had a liquor violation for serving a minor and this is the last day of
210 his liquor license suspension.
211

212 Mr. Rothwell stated the Environmental Health Department required that the
213 applicant submit a food facility plan review. Mr. Rothwell explained this
214 application had gone through a site plan process and the Environmental Health
215 Department had an opportunity to review this application.
216

217 Commissioner Hughes clarified the time for the bar to close will be at 10 pm. Mr.
218 Spurry stated it was only for the bar, he had no plans to keep the restaurant and
219 seafood area open later than 9 pm.
220

221 Commissioner Boicourt moved to recommend to the Board of Appeals the special
222 exception modification to grant the Spurry Family Partnership/Chesapeake
223 Landing Restaurant to expand the legal nonconforming restaurant within the
224 existing structure, parking is already within parameters, accommodate additional
225 seating capacity of 32 persons, the request for expanding the operating hours from
226 9 pm to 10:00 pm seems reasonable, the Environment Health Department will
227 inspect the new area, and State Highway Administration states they are in
228 approval; Commissioner Spies seconded. The motion carried unanimously.
229

- 230 c. Fred Israel and Lesley Israel (1155)—6397 Cedar Cove Road, Royal Oak, MD
231 21662, (map 40, grid 14, parcel 60, zoned Rural Conservation), Sean Callahan,
232 Lane Engineering, LLC, Agent.
233

234 Mr. Rothwell presented the preliminary major 4 lot subdivision, lot size waiver
235 for Lot 4, and amendment to Lot size waiver for Lots 2 & 3. Lot 4 needs a waiver
236 because it is over 5 and less than 20 acres. Staff recommends approval to
237 accommodate the existing driveway, primary dwelling and the existing SDA on
238 the lot. At the sketch level Lots 2 and 3 were approved for a lot size waiver, but

239 their configuration has been amended since sketch. There is an existing barn and
240 an existing agricultural well shown in the required setbacks and the applicant has
241 two choices: he can amend the proposed lot lines or obtain a Board of Appeals
242 variance. We have discussed these alternatives with the applicant and their first
243 preference is a lot line revision which was sent out to the Commission.
244

245 Mr. Callahan presented various options for lot reconfiguration and stated that
246 Option D is the preferred configuration as the road in this area already exists.
247 Option D moves the lot line to include the barn, well and driveway with the
248 existing agricultural components on Lot 1.
249

250 Commissioner Hughes stated that in the past there has been a problem with the
251 Commission getting plats on the fly, with options A, B, C and D and if they don't
252 work, trying E, F and G. Ms. Verdery stated the well and barn issue were
253 discovered at the recent Technical Advisory Committee. She suggested approving
254 the preliminary with the requirement to show Option D on the final plat if the
255 Commission supports that option.
256

257 Commissioner Hughes asked for comments from the Commission, the staff and
258 the public. There were none.
259

260 Commissioner Spies moved to approve the Lot Size Waiver for Lot 4 for Fred and
261 Lesley Israel, 6397 Cedar Cove Road, Royal Oak, MD 21662, with staff
262 conditions because a lot somewhat larger than 5 acres makes more sense for site
263 design; Commissioner Boicourt seconded. The motion carried unanimously.
264

265 Commissioner Spies moved to approve Lot 2 & 3 for Fred and Lesley Israel, 6397
266 Cedar Cove Road, Royal Oak, MD 21662, with staff conditions, as these
267 modifications make greater sense with site design, Commissioner Sullivan
268 seconded. The motion carried unanimously.
269

270 Commissioner Spies moved to approve the preliminary major 4 lot subdivision
271 for Fred and Lesley Israel, 6397 Cedar Cove Road, Royal Oak, MD 21662, with
272 the lot reconfiguration as shown on Option D to include the barn and well on Lot
273 1, and all staff conditions, Commissioner Boicourt seconded. The motion carried
274 unanimously.
275

276 **7. Discussions Items**

- 277 a. Interim TMDL Milestone Report—Ms. Verdery stated we will be putting out a
278 letter associated with the milestones to date. We will need to make a
279 recommendation to the County Council. We hope to establish some dates to meet
280 on the Comprehensive Plan outside of our regular meeting dates and include the
281 Council recommendation for the milestone letter on to those. Otherwise we will
282 include this item on our February meeting agenda.
283

Commissioner Boicourt asked if we are getting any help from the State. Ms. Verdery stated this report is to account for what we have done to date. Public Works is working with us on this. Staff is also working on a project to map the location of living shoreline projects and permanently preserved lands. Mr. Sokolich stated the State lists the best management practices they recognize and establish the nutrient reduction they recognize from this.

8. Staff Matters

- a. Attorney General Douglas Gensler opinion—Commissioner Hughes stated he spoke with Mr. Pullen and he said the Opinion in the package is for reference only and does not apply to Charter Counties such as Talbot.

9. WorkSessions

- a. Review draft Comprehensive Plan—Adjourned for Comprehensive Plan worksession at 10:24 a.m.

The Planning Commission has unanimously decided that there will be a public hearing of the Comprehensive Plan on Thursday, January 29, 2015 at 6:00 p.m. and again on Wednesday, February 4, 2015 immediately following the agenda of the regularly scheduled Planning Commission meeting.

9. Commission Matters

- 10. Adjournment**—Commissioner Hughes adjourned the Planning Commission meeting at 3:48 p.m.